

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MANUEL R GARCIA,
Petitioner,
v.

MATTHEW MCVAY,
Respondent.

Case No. [22-cv-02612-JD](#)

ORDER RE DISMISSAL

Manuel Garcia, a pro se state prisoner, filed a habeas petition under 28 U.S.C. § 2254. Respondent filed a motion to dismiss on the ground that the sole claim in the petition was unexhausted. The Court granted the motion but provided Garcia twenty-eight days to file a motion for a stay if he chose to exhaust the claim. The Court granted Garcia an extension, but he has not filed a motion for a stay.

The case is dismissed as unexhausted, and the Clerk is requested to close it. A certificate of appealability (“COA”) will not issue because this is not a case in which “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Court declines to issue a COA regarding the procedural holding and the underlying claim in the petition.

IT IS SO ORDERED.

Dated: January 25, 2024



JAMES DONATO
United States District Judge